

JS 44 (Rev. 02/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

GRILLO, NATHAN EUGENE

(b) County of Residence of First Listed Plaintiff Northumberland

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

THE O'HANLON LAW FIRM, P.C., 1500 J.F.K. Blvd., Suite 1410,
2 Penn Center, Philadelphia, PA 19102 - 267-546-9066

DEFENDANTSMCGINLEY, SUPERINTENDENT,
SCI COAL TOWNSHIPCounty of Residence of First Listed Defendant Northumberland

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity).
42 U.S.C. § 1983

Brief description of cause:

Plaintiff was denied his constitutional and statutory rights.

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$ 250,000.00

CHECK YES only if demanded in complaint.

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

Stephen T. O'Hanlon, Esquire

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NATHAN EUGENE GRILLO
SCI Coal Township
1 Kelley Drive
Coal Township, PA 17866

VS.

SUPERINTENDENT MCGINLEY
SCI Coal Township
1 Kelley Drive
Coal Township, PA 17866

and

DEPUTY SUPERINTENDENT LUSKAVAGE
SCI Coal Township
1 Kelley Drive
Coal Township, PA 17866

and

SECURITY CAPTAIN MIRARCHI
SCI Coal Township
1 Kelley Drive
Coal Township, PA 17866

and

SECURITY LIEUTENANT BURNS
SCI Coal Township
1 Kelley Drive
Coal Township, PA 17866

and

CORRECTIONAL OFFICERS JOHN DOES 1-5
SCI Coal Township
1 Kelley Drive
Coal Township, PA 17866

Civil Action No.

JURY TRIAL
DEMANDED

COMPLAINT

Jurisdiction

1. This action is brought pursuant to 42 U.S.C. §

1983. Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343 (1), (3), (4) and the aforementioned statutory provision. Plaintiff further invokes the supplemental jurisdiction of this Court pursuant to 28 U.S.C. § 1367(a) to hear and adjudicate state law claims.

Parties

2. Plaintiff, Nathan Eugene Grillo, is an adult individual residing in Commonwealth of Pennsylvania at the address aforementioned.

3. Defendant, Superintendent McGinley, at all times relevant hereto, was the superintendent of the State Correctional Institution (SCI) at Coal Township. At all relevant times hereto, he was legally responsible for the operation of SCI Coal Township and further was responsible for the welfare of all the inmates of SCI prison. He was also responsible for the supervision, training and discipline of the Defendant, Deputy Superintendent Luskavage, Defendant, Security Captain Mirarchi, and Defendant, Security Lieutenant Burns. He is being sued in his individual capacity.

4. Defendant, Deputy Superintendent Luskavage, at

all times relevant hereto, was employed at SCI Coal Township and is legally responsible for the welfare of all inmates at SCI Coal Township. Further he was responsible for the supervision, training and discipline of Defendant, Security Captain Mirarchi, and Defendant, Security Lieutenant Burns. He is being sued in his individual capacity.

5. Defendant, Security Captain Mirarchi, at all times relevant hereto, was an employee of SCI Coal Township and is legally responsible for the welfare of all inmates at SCI Coal Township including the welfare of Plaintiff, Nathan Eugene Grillo. Further he was responsible for the supervision, training and discipline of Defendant, Security Lieutenant Burns. He is being sued in his individual capacity.

6. Defendant, Security Lieutenant Burns, at all times relevant hereto, was an employee at SCI Coal Township and, among other duties, is legally responsible for the welfare of all inmates at SCI Coal Township including the welfare of Plaintiff, Nathan Eugene Grillo. He is being sued in his individual

capacity.

7. Defendants, Correctional Officers John Does 1-5, were all employees at SCI Coal Township and, among other duties, were legally responsible for the welfare of all inmates at SCI Coal Township including the welfare of Plaintiff, Nathan Eugene Grillo. They are being sued in their individual capacity.

Factual Allegations

8. At all times relevant hereto, Plaintiff, Nathan Grillo, was an inmate at Pennsylvania State Correctional Institution Coal Township.

9. Sometime after entering the facility at SCI Coal Township, Plaintiff came into a substantial sum of money and had that money placed in his inmate bank account.

10. The financial information contained in all inmate bank accounts is to be kept confidential and the details of an inmate's bank account should only be shared with that particular inmate.

11. In fact the inmate bank account statement should be delivered personally to the inmate and the

information contained therein should not be shared with any other individual.

12. Sometime approximately September 2017 a correctional officer at SCI Coal Township, instead of personally delivering Plaintiff's inmate statement to him, slid it under the door of Plaintiff's cell, in full view of Plaintiff's cellmate.

13. Plaintiff's cellmate at that time was a member of a gang known as the "Bloods."

14. Plaintiff has never and does not now have any gang affiliation.

15. Defendant's cellmate was, therefore, presented with Plaintiff's inmate account statement and became aware that Plaintiff had a substantial sum of money in his inmate account.

16. Shortly thereafter, within weeks, Plaintiff began receiving threats and extortion attempts. More specifically, he was threatened with serious physical injury and/or death by other inmates if Plaintiff did not pay them cash from his inmate account. Plaintiff became aware of a specific extortion threat from an

inmate named Brandon Heaps, who at all times relevant hereto, was also an inmate at SCI Coal Township, housed on FA Block, the same block as Plaintiff.

17. Plaintiff fearing for the serious threat to his safety and security sent a request slip directly to Superintendent McGinley advising him of a specific threat of harm to him from another inmate.

18. Superintendent McGinley, with deliberate indifference to a known serious risk of harm to the Plaintiff, instead of taking any action advised Plaintiff that he needed to advise Deputy Superintendent Luskavage of the threat made by the other inmate. Superintendent McGinley failed to investigate and took no other action to provide for the safety of the Plaintiff.

19. Plaintiff directly wrote to Deputy Superintendent Luskavage and gave him specific information concerning this threat to his life which had been made by another inmate on the same block. Deputy Luskavage, with deliberate indifference to the health, safety and welfare of Plaintiff, told the

Plaintiff that he would need to write to Security Captain Mirarchi. Defendant Luskavage failed to investigate and took no action to provide for the safety of Plaintiff.

20. Plaintiff then wrote to Security Captain Mirarchi, once again, explicitly providing information about a serious threat to his health and safety which had been made by another inmate.

21. Security Captain Mirarchi told Plaintiff that he would do nothing about his concerns and instructed Plaintiff that he needed to contact Security Lieutenant Burns. Security Captain Mirarchi, with deliberate indifference to a known serious risk of harm to Plaintiff's health, safety and welfare, took no action to either investigate Plaintiff's claims or to provide any additional protection to the Plaintiff.

22. Plaintiff thereafter wrote specifically to Security Lieutenant Burns giving him specific information concerning the threat to his health, safety and welfare which had been made by another inmate.

23. Defendant, Security Lieutenant Burns, wrote

back to Plaintiff stating that Plaintiff's concerns had been "noted." Upon information and belief, Defendant, Security Lieutenant Burns, took absolutely no action in response to Plaintiff's report of a threat to his health, safety and welfare and, with deliberate indifference to this known serious risk to Plaintiff's health and welfare did not investigate Plaintiff's information and took no steps whatsoever to protect Plaintiff from the threat of serious physical harm.

24. Between the time period between September 2017 and May of 2018 Plaintiff also explicitly reported his concerns to Defendant Correctional Officers John Does 1-5. More specifically, Plaintiff specifically told the John Doe Defendants that he had received direct threats to his life from an inmate named Brandon Heaps. None of the Defendant Correctional Officers John Does 1-5 took any steps to investigate Plaintiff's concerns nor did they take any action to provide for the safety of the Plaintiff.

25. Approximately two weeks after Plaintiff had advised Lieutenant Burns that his life was in danger

from inmate Heaps, Plaintiff was attacked by inmate Heaps as he was walking in from the exercise yard. More specifically, on May 26, 2018 Plaintiff was attacked by inmate Heaps with what is believed to be a homemade knife. Inmate Heaps had been caught with contraband weapons in the past.

26. Plaintiff, bleeding profusely from his neck, was taken to medical. Plaintiff was initially only examined and then placed in a cell. Approximately three hours later a nurse stopped by his cell and saw the floor covered in blood. The nurse called the doctor. The doctor arrived and tried to stitch Plaintiff's wounds but could see that the wounds were so severe that Plaintiff needed to be taken by ambulance to the hospital.

27. On the day that Plaintiff was attacked, as described herein before, Defendant Mirarchi and Defendant Burns, with deliberate indifference to a known serious risk of harm to the Plaintiff, ordered that the metal detectors which were to be used to screen inmates going into and out of the yard not be

used. Their order to not use the metal detectors despite being aware of the serious risk of harm this could cause to Plaintiff.

28. All of the Defendants herein disregarded a risk of excessive and substantial risk of serious harm to the Plaintiff.

29. None of the Defendant prison officials herein responded reasonably to the risk.

30. The Defendant prison officials herein failed to follow their own rules, regulations or policies concerning protection of prisoners.

31. All of the Defendant prison officials named herein failed to respond to a particular threat of danger to the Plaintiff.

32. None of the prison officials herein conducted any investigation into the information provided by the Plaintiff to them about the threats to his health and welfare.

**FIRST CAUSE OF ACTION
EIGHTH AMENDMENT VIOLATION**

33. Plaintiff incorporates paragraphs 1 through 32 herein by reference as though each were fully set forth herein at length.

34. The actions of Defendant, Superintendent McGinley, Defendant, Deputy Superintendent Luskavage, Defendant, Security Captain Mirarchi, and Defendant, Security Lieutenant Burns by failing to:

- (a) respond to a particular threat of danger to Plaintiff,
- (b) investigate the information provided to them by the Plaintiff about the threats of inmate Heaps to his safety, health and well-being;
- (c) follow the Pennsylvania Department of Corrections' rules, regulations or policies concerning the protection of prisoners; and
- (d) take steps to protect Plaintiff from the threat of serious physical harm;

were intentional acts with no rational basis for such treatment on the part of each Defendant and was done with deliberate indifference for the health, safety and well-being of Plaintiff and caused Plaintiff severe pain, suffering, physical injury and emotional distress and violated Plaintiff's rights under the Eighth Amendment.

35. The conduct of Defendant, Superintendent McGinley, Defendant, Deputy Superintendent Luskavage, Defendant, Security Captain Mirarchi, and Defendant, Security Lieutenant Burns, committed under the color of state law, constituted deliberate indifference to the Plaintiff's health, safety and well-being and contributed to and proximately caused the above described violation of Plaintiff's Eighth Amendment rights and the assault and battery upon Plaintiff by an inmate. As a result, Plaintiff, Nathan Grillo, suffered extreme pain, physical injury and emotional distress in violation of his rights under the laws of the Constitution of the United States, in particular the Eighth Amendment thereof, and 42 U.S.C. § 1983.

36. The failure of Defendants to take the threats of serious physical injury or death made by inmate Heaps to the Plaintiff seriously and/or take any action to protect the Plaintiff, despite having a reasonable opportunity to do so, constitutes deliberate indifference to the Plaintiff's safety, health and well-being and contributed to and proximately caused the above described violation of Plaintiff's Eighth Amendment rights.

37. Defendants have by the above described actions deprived Plaintiff Nathan Grillo of rights secured by the Eighth Amendment to the United States Constitution in violation of 42 U.S.C. § 1983.

WHEREFORE, Plaintiff, Nathan Eugene Grillo, requests the following relief:

- a. Compensatory damages;
- b. Punitive damages;
- c. Reasonable attorney's fees and costs;
- d. Such other and further relief as appears reasonable and just; and
- e. A jury trial as to each Defendant and as

to each count.

The O'Hanlon Law Firm, P.C.

By: _____
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